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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/815,797 | 04/02/2004 | Doru Calin | 129250-001068/US | 9920 |
| 32498 | 7590 | 07/16/2009 | EXAMINER | |
| CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC | | | RAMPURIA, SHARAD K | |
| P.O. BOX 1995 | | | ART UNIT | PAPER NUMBER |
| VIENNA, VA 22183 | | | 2617 | |
| MAIL DATE | | DELIVERY MODE | | |
| 07/16/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/815,797 | CALIN ET AL. | |
| | Examiner | Art Unit | |
| | SHARAD RAMPURIA | 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 May 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3,7-10,20,22,26,27,37 and 50-52 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3,7-10,20,22,26,27,37 and 50-52 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 7-10, 20, 22, 26-27, 37, 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Feuerstein; Martin J. et al.** [US 6141565 A] in view of **Petrus; Paul** [US 6954643 B2].

As per claim 1, **Feuerstein** teaches:

A method implemented in a controller for setting a number of base stations that can be considered hand-off base stations (i.e. Abstract) comprising the steps of:

Measuring real-time traffic flow criteria associated with one or more base stations; (e.g. traffic-load; Col.3; 55-65, Col.13; 1-26)

Feuerstein doesn't teach specifically, setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates. However, **Petrus** teaches in an analogous art, that setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates. (e.g. hand-off based on certain condition; Col.7; 6-53) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates in order to provide a method and apparatus for facilitating initial base station selection and/or handover (collectively referred to herein as base station selection. In accordance with another aspect, base station selection takes into account a set of one or more selection criteria (e.g., distance and base station load) in addition to signal strength and hysteresis information to select a base station.

As per claims 3, 22, Feuerstein teaches the method as in claims 1, 20, respectively, further comprising the step of maintaining an initial neighbor list and generating an adaptable neighbor list of potential hand-off base stations based on traffic flows. (e.g. Col.10; 25-30)

As per claims 7-8, 26-27, Feuerstein teaches:

The method as in claims 1, 20, respectively, further comprises the step of forwarding the varied, adaptable neighbor list to the wireless device. (e.g. adaptable neighbor list; Col.11; 11-25)

As per claim 9, Feuerstein teaches:

The method as in claim 1 wherein the wireless device is operable to enable the hand-off. (Col.11; 11-25)

As per claim 10, Feuerstein teaches:

The method as in claim 1 wherein the at least one base station on the varied list is operable to enable the hand-off. (Col.11; 11-25)

Claims 20, 37, are the **method, system**, claims, corresponding to **method** claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

As per claims 50-52, Feuerstein teaches all the particulars of the claim except setting the number of base stations based on both the measured traffic flow criteria and hysteresis parameters. However, **Petrus** teaches in an analogous art, that the method as in claims 1, further comprising setting the number of base stations based on both the measured traffic flow criteria and hysteresis parameters. (e.g. hysteresis and traffic factor; Col.10; 35-40)

Response to Amendments & Remarks

Applicant's arguments with respect to claims 1, 3, 7-10, 20, 22, 26-27, 37, 50-52, have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment (For illustration; since newly amended claims modified the above-disclosed rejection) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or *EBC@uspto.gov*.

/Sharad Rampuria/
Primary Examiner
Art Unit 2617